Key Features of an Irish ELTIF

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Table of Contents

Introduction

European long-term investment funds (ELTIFs) are the only type of funds dedicated to long-term investments that can be distributed across borders in the EU to both professional and retail investors.

The revised ELTIF Regulation[1], commonly referred to as "ELTIF 2.0", redesigns the EU regulatory framework to make ELTIFs more attractive by removing a number of existing regulatory obstacles and entered into force in early 2024.

The Irish ELTIF offering permits asset managers to house long-term investments in a range of legal structures which benefit from the existing tax treatment available to Irish-domiciled regulated funds and which also benefits from a similar supervisory framework to that afforded to Irish-domiciled qualifying investor funds. The Irish ELTIF is expected to facilitate investment by both professional and retail investors in private assets and the raising and channelling of capital towards long term investments in the real economy.

The Irish ELTIF is an EU alternative investment fund which, to operate, must obtain a certificate of authorisation from the Central Bank of Ireland (**Central Bank**) under both applicable Irish investment funds legislation and the ELTIF Regulation. Thereafter, it is subject to the regulation and supervision of the Central Bank.

Irish ELTIFs are available to both retail investors and professional investors provided that where an ELTIF will be marketed to retail investors, specific requirements as outlined below must be complied with. Only those investors who meet the MiFID II "professional client" criteria will constitute "professional investors" under the ELTIF regime (**Professional Investors**). Investors who do not meet the criteria applicable to Professional Investors constitute retail investors (**Retail Investors**).

In this guide, we provide an overview of the key features of the Irish ELTIF. The information contained in this document is based on the revised ELTIF Regulation together with the ELTIF Level 2 measures implemented thereunder (**RTS**)[2].

1 Regulation 2015/760/EU as amended by Regulation (EU) 2023/606
2 Commission Delegated Regulation (EU) 2024/2759

What legal form can an Irish ELTIF take?

An Irish ELTIF may be structured using a range of different legal structures, namely:

(i) An Irish Collective Asset-management Vehicle (**ICAV**)

(ii) A public limited company authorised pursuant to Part 24 of the Irish Companies Act 2014 (**PLC**);

(iii) An investment limited partnership (**ILP**)

(iv) A unit trust; or

(v) A common contractual fund

We expect that Irish ELTIFs authorised under the revised ELTIF regime will primarily comprise of ICAVs and ILPs.

Who are the key participants in an Irish ELTIF and are there any regulatory considerations arising for such participants?

PARTICIPANT	REGULATORY CONSIDERATIONS
Investors	None, save that where an ELTIF is marketed to Retail Investors, certain conditions must be satisfied. ELTIFs which do not meet such additional conditions can only be marketed to Professional Clients. Where applicable, the ELTIF should receive appropriate assurances from Professional Investors that they meet the applicable criteria set down in MiFID II. There is no minimum initial subscription requirement or minimum capital commitment requirement per Professional Investor or Retail Investor imposed by the Central Bank.[3]
Board of Directors	Where the ELTIF is structured as a corporate fund such as an ICAV, it must appoint a board of directors, each of whom must be pre-approved by the Central Bank. All such directors will be subject to the Central Bank's fitness and probity regime and individual conduct standards rules.
General Partner	If structured as an ILP, the general partner (which must appoint the EU AIFM), does not need to be authorised by the Central Bank or other competent authority. However, the Central Bank must be satisfied as to the general partners' competence and probity. The directors and/or partners of the General Partner are subject to the Central Bank's fitness and probity regime and individual conduct rules.
AIFM	Must be authorised as an EU AIFM by an EU national competent authority.
Investment Manager	Where discretionary investment management is delegated by the AIFM to an Investment Manager, that entity must be regulated in the provision of discretionary asset management services in its home jurisdiction whose regulator is recognised by the Central Bank. Non-EU Investment Managers will require pre-clearance by the Central Bank. EU Investment Managers will be subject to a Central Bank notification process only.
Asset Advisor	In the case of an ELTIF investing in real assets, a non-regulated asset advisor may be appointed.
Administrator	Typically authorised by the Central Bank. However non-Irish EU AIFMs may provide administration services to Irish funds on a cross border basis.

3 However to the extent that an Irish ELTIF is established as a Qualified Investor ELTIF, a minimum subscription of €100,000 will apply. For further details on the Central Bank's 24 hour approval process which is available to certain categories of Irish ELTIFs, please refer to "Central Bank Approval Process" below.

Depositary	The assets of the ELTIF must be entrusted to a depositary. In the case of an ELTIF marketed to Retail Investors, the depositary must be either an Irish credit institution, a branch of an EU credit institution or an Irish authorised wholly-owned subsidiary of a credit institution. Where the ELTIF is marketed solely to Professional Investors, the depositary must be either an Irish credit institution, a MiFID investment firm authorised to provide custodial services and which meets certain capital requirements or a wholly-owned subsidiary of a credit institution. Alternatively, the Irish "Real Assets" depositary regime also offers a "Depo-light" alternative which is available to closed-ended funds which generally invest in asset classes such as infrastructure, real estate and private companies.

Domestic tax treatment of Irish ELTIFs

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What type of domestic tax-regime an Irish-domiciled ELTIF will be subject to?

Because the Irish-domiciled ELTIF will be authorised under the existing Irish investment fund legislation, the tax regime will be determined by the legal structure used to house the ELTIF. Accordingly, it will be subject to the same favourable tax regime as currently applies to a regulated fund established as an Irish ICAV, Irish PLC, Irish ILP, Irish unit trust or Irish CCF, as applicable.

To the extent an Irish-domiciled ELTIF is established as a tax opaque regulated fund (an ICAV, a PLC or Unit Trust), the ELTIF will be tax-exempt in Ireland on its income and gains. Provided certain administrative requirements are fulfilled, distributions or any encashment, redemption, cancellation or transfer of shares/units by investors who are not Irish tax resident or ordinarily resident will generally be able to be done free of Irish tax.

To the extent an Irish-domiciled ELTIF is established as a tax transparent regulated fund (an ILP or CCF) any income, gains or losses which arise at the level of the ELTIF will under Irish tax rules be treated as arising, or, as the case may be, accruing, to each investor (in proportion to how income, gains and losses are shared under the terms of the ELTIF's governing documents) as if such income, gains or losses had arisen, or, as the case may be, accrued, to the investors without passing through the hands of the ELTIF. Distributions will be able to be made by the ELTIF to its investors free of any Irish tax implications as all the underlying profits of the ELTIF ILP shall already have been allocated to investors for Irish tax purposes.

Transfers of an investor's interest in an Irish-domiciled ELTIF will be able to be done free of any Irish transfer taxes.

The favourable VAT regime which applies to Irish regulated funds should also apply to an Irish-domiciled ELTIF so that fund management, investment management, investment advisory, fund administration, distribution and custody services should qualify as VAT exempt services.

What can an ELTIF invest in?

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What can an ELTIF invest in?

An ELTIF is restricted to investing only in:

(a) "eligible investment assets" (**Eligible Investment Assets**); and

(b) assets referred to in Article 50(1) of the UCITS Directive (**Other Permitted Assets**).

An ELTIF is prohibited from carrying out any of the following activities:

a) short selling of assets;

b) taking any kind of direct or indirect exposure to commodities;

c) securities lending, securities borrowing, or repurchase transactions, if thereby more than 10% of the assets of the ELTIF are affected; or

d) using financial derivative instruments, except for hedging purposes[4].

What are Eligible Investment Assets?

Eligible Investment Assets are the range of assets (in addition to Other Permitted Assets) in which an ELTIF may invest. They inlcude the following:

(a)	real assets as described below (**Real Assets**);
(b)	equity or quasi-equity instruments which have been: (i) issued by a qualifying portfolio undertaking ("**QPU**"), and acquired by the ELTIF from that QPU or from a third party via the secondary market. See below for a further discussion on QPU; (ii) issued by a QPU in exchange for an equity or quasi-equity instrument previously acquired by the ELTIF from that qualifying portfolio undertaking or from a third party via the secondary market; (iii) issued by an undertaking in which a QPU holds a capital participation in exchange for an equity or quasi-equity instrument acquired by the ELTIF in accordance with point (i) or (ii) of this point
(c)	debt instruments issued by a QPU;
(d)	loans granted by the ELTIF to a QPU with a maturity that does not exceed the life of the ELTIF;
(e)	units or shares of one or several other ELTIFs, EuVECAs, EuSEFs, UCITS and EU AIFs managed by EU AIFMs as described in greater detail below.
(f)	simple, transparent and standardised securitisations (**STS**). These assets are required to be STS with underlying assets consisting of mortgage-backed securities, commercial, residential and corporate loans, as well as trade receivables.
(g)	bonds issued, pursuant to the EU Green Bond Regulation, by a QPU.

4 The RTS confirm that financial derivative instruments used for hedging purposes are limited to those derivative instruments the underlying of which correspond to the assets to which the ELTIF has or could have exposure. Where there is no derivative instrument available to hedge an exposure to a specific asset, a derivative instrument providing exposure to the same or economically similar asset classes can be used.

What is a "Real Asset"?

A "real asset" is "an asset that has an intrinsic value due to its substance and properties." Real assets include immovable property, such as communication, environment, energy or transport infrastructure, social infrastructure, including retirement homes or hospitals, as well as infrastructure for education, health and welfare support or industrial facilities, installations, and other assets, including intellectual property, vessels, equipment, machinery, aircraft or rolling stock. Art, manuscripts, wine and jewellery are specifically excluded as they do not normally represent long term investments in the real economy.

Must an ELTIF invest directly in Eligible Investment Assets?

ELTIF 2.0 provides that ELTIFs should in general, have the possibility of conducting minority co-investment in investment opportunities. Indirect investments, through "intermediary entities, including special purpose vehicles and securitisation or aggregator vehicles or holding companies" including through minority participations in intermediary entities, are possible in an ELTIF.

What are Qualifying Portfolio Undertakings or QPUs?

A QPU is an issuer of certain Eligible Investment Assets as detailed above that must fulfil the following requirements at the time of investment by the ELTIF:

(a) it is not a financial undertaking (being a credit or insurance/reinsurance undertaking, management company or AIFM, an investment firm, financial holding company or mixed-activity holding company (**Financial Undertaking**) unless:

  (i) it is a Financial Undertaking that is not a financial holding company or a mixed activity holding company; and

  (ii) such Financial Undertaking has been authorised or registered more recently than 5 years before the date of the initial investment by the ELTIF;

By way of derogation from the above rule, a QPU may be a Financial Undertaking that exclusively finances QPUs or Real Assets.

(b) it is an undertaking which:

  (i) is not admitted to trading on a regulated market or on a multilateral trading facility (**MTF**); or

  (ii) is admitted to trading on a regulated market or on an MTF and has a market capitalisation of no more than EUR 1.5 billion;

(c) it is established in a Member State, or in a third country provided that the third country is not a high risk country, or on the EU tax blacklist.

What are the Portfolio Composition and Concentration Requirements for ELTIFs?

The increased thresholds in portfolio composition and diversification form part of the key amendments introduced by ELTIF 2.0. In addition, ELTIF 2.0 differentiates between those ELTIFs which may be sold to Retail Investors and those sold only to Professional Investors. The portfolio composition and concentration limits are set out below, though restrictions 2-5 do not apply where the ELTIF is being marketed solely to Professional Investors.

1. An ELTIF shall invest at least 55 % of its capital in Eligible Investment Assets.
2. An ELTIF shall invest no more than:
    a. 20 % of its capital in instruments issued by, or loans granted to, any single QPU;
    b. 20 % of its capital in a single Real Asset;
    c. 20% of its capital in shares of any single ELTIF, EuVeca, EuSEF, UCITS or EU AIF managed by an EU AIFM. This limit will not apply where an ELTIF is a feeder ELTIF;
    d. 10 % of its capital in assets referred to in Other Permitted Assets where those assets have been issued by any single body. This 10% limit may be raised to 25% in respect of covered bonds.
3. The aggregate value of STS in an ELTIF portfolio shall not exceed 20 % of the value of the capital of the ELTIF.
4. The aggregate risk exposure to a counterparty of the ELTIF stemming from OTC derivative transactions, repurchase agreements, or reverse repurchase agreements shall not exceed 10 % of the value of the capital of the ELTIF.
5. An ELTIF may acquire no more than 30% of the units or shares of a single ELTIF, EuVECA, EuSEF, UCITS or of an EU AIF managed by an EU AIFM. This limit does not apply for master-feeder fund structures.
6. The concentration limits set down in the UCITS Directive apply to investments in Other Permitted Assets except where the ELTIF is marketed solely to Professional Investors.
7. Companies which are included in the same group for the purposes of consolidated accounts, shall be regarded as a single QPU or a single body for the purpose of calculating the limits referred to in 2 – 5 above.

Do the portfolio composition and diversification rules apply from the date of authorisation of the ELTIF?

The ELTIF Regulation contains a ramp-up provision to the application of the diversification rules which states that the portfolio composition and diversification requirements shall:

a) apply by the date specified in the rules or instrument of incorporation of the ELTIF;

b) cease to apply once the ELTIF starts to sell assets in order to redeem investors' shares after the end of the life of the ELTIF;

c) be temporarily suspended where the ELTIF raises additional capital or reduces its existing capital, so long as such a suspension lasts no longer than 12 months.

Where an investment issued by a QPU admitted to trading on a regulated market or MTF no longer fulfils the maximum market capitalisation of Euro 1.5 billion, the investment can continue to be counted for the purposes of the 55% investment limit for a maximum of three years from the date on which the QPU no longer fulfils that requirement.

Is an Irish ELTIF able to enter into borrowing arrangements?

ELTIFs are permitted to borrow cash where such borrowing fulfils all of the following conditions:

(a) it represents no more than 50% of the net asset value of the ELTIF in the case of ELTIFs that can be marketed to Retail Investors, and no more than 100% of the net asset value of the ELTIF in the case of ELTIFs marketed solely to Professionallinvestors;

(b) it serves the purpose of making investments or providing liquidity, including to pay costs and expenses, provided that the holdings in cash or cash equivalent of the ELTIF are not sufficient to make the investment concerned;

(c) it is contracted in the same currency as the assets to be acquired with the borrowed cash or in another currency where currency exposure has been appropriately hedged; and

(d) it has a maturity no longer than the life of the ELTIF.

Borrowing arrangements fully covered by the ELTIF's investors' capital commitments are excluded from borrowing limits.

The AIFM is required to disclose in the ELTIF's prospectus whether the ELTIF intends to borrow money, and it must also disclose the borrowing limits of the ELTIF. The borrowing limits to be specified in the prospectus shall only apply as from the date specified in the rules or instrument of incorporation of the ELTIF. That date will be no later than three years after the date on which the marketing of the ELTIF commenced.

The borrowing limits will be temporarily suspended where the ELTIF raises additional capital or reduces its existing capital. Such suspension will be limited in time to the period that is strictly necessary taking due account of the interests of the investors in the ELTIF and, in any case, shall last no longer than 12 months.

Can ELTIFs be established as master-feeder structures?

Yes.

ELTIFs can be established as master-feeder structures, where a feeder ELTIF invests at least 85% of its assets in a master ELTIF. However, both the master fund and the feeder fund must be ELTIFs.

Additional obligations and disclosure requirements are imposed on master-feeder structures including, for example, disclosure around charges to be included in the annual report of the feeder ELTIF and information sharing agreements between the feeder ELTIF and the master ELTIF.

Under the previous regime, it was not possible to establish master-feeder ELTIFs.

Can ELTIFs be established as fund-of-fund structures?

Yes, ELTIFs can now invest in UCITS and EU AIFs managed by EU AIFMs. ELTIFS can also invest in EuVECAs or EuSEFs. In each case, the underlying funds must invest in Eligible Investment Assets and Other Permitted Assets and cannot themselves invest more than 10% of their assets in any other fund. Importantly, an ELTIF implementing a fund-of-funds investment strategy must comply with the portfolio composition, diversification and borrowing rules outlined above on a look-through basis.

Does the Central Bank impose additional product specific rules on Irish domiciled ELTIF over and above those imposed under ELTIF 2.0?

No. Based on the approach outlined in its AIF Rulebook which sets down the domestic supervisory and reporting framework which applies to Irish-domiciled ELTIF funds, the Central Bank has not gold-plated the ELTIF regulation. Therefore, only the product-specific rules on eligible assets, portfolio composition and diversification amongst others are those set down in the ELTIF Regulation and its related delegated acts.

Liquidity in an Irish ELTIF

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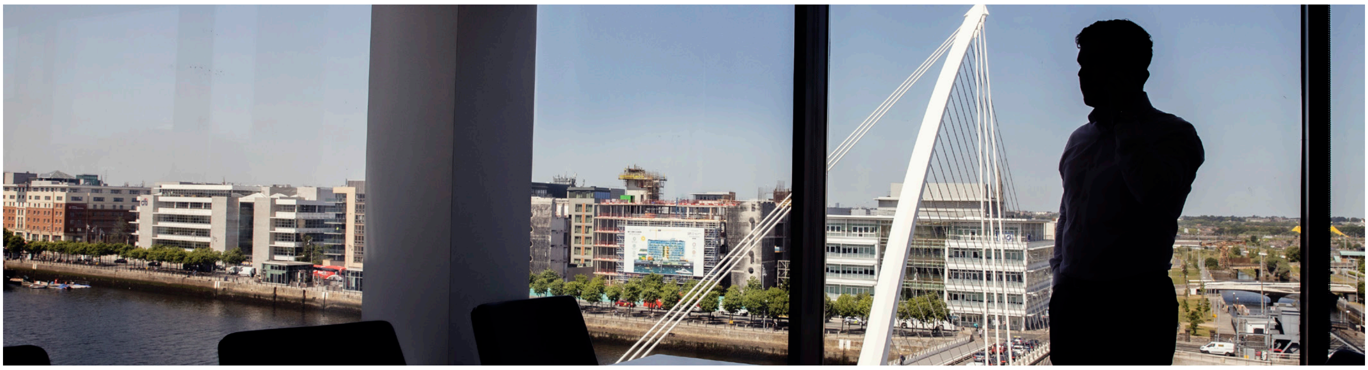

Do all ELTIFs have a limited duration/life?

Do all ELTIFs have a limited duration/life?

Yes. ELTIFs are generally structured as closed-ended funds and all ELTIFs must have a limited duration notwithstanding that they may offer redemption facilities as detailed further below. In this regard, the ELTIFs constitutive and offering documents must specify a specific date for the end of the life on an ELTIF. The relevant documentation may also provide for the right to extend the life of the ELTIF and conditions for exercising such right.

The duration / life of an ELTIF must be consistent with the long-term nature of the ELTIF and should be long enough to cover:

i) the life cycle of each of its assets, measured on the liquidity profile and economic life cycle of the asset concerned; and

ii) the stated investment objective of the ELTIF.

The RTS set down the criteria which must be considered by the AIFM when assessing whether the life of the ELTIF is compatible to the life-cycles of each of the individual assets of the ELTIF.

Can an ELTIF offer redemption facilities?

Yes, an ELTIF can, subject to the following conditions, offer redemption facilities to investors:

- redemptions are not permitted before the end of the minimum holding period (if any is applied) or generally during the ramp up period;
- at the time of authorisation and throughout the life of the ELTIF, the AIFM must demonstrate that the ELTIF has an appropriate redemption policy and liquidity management tools in place;
- the procedures and conditions for redemptions must be clearly set out in the redemption policy;
- redemptions are limited to a percentage of assets of the ELTIF which are Other Permitted Assets (i.e. liquid assets); and
- investors are treated fairly and redemptions are granted on a pro rata basis if the requests for redemption exceed the percentage of assets of the ELTIF which are Other Permitted Assets.

Is an ELTIF which offers redemption facilities required to apply a minimum holding period?

Under the RTS, an ELTIF which offers redemption facilities may, but is not required to, apply a minimum holding period.

Where the ELTIF chooses to apply such a fixed minimum holding period, that minimum holding must be determined using certain specific criteria set down in the RTS.

What is the maximum level of redemptions permitted in an open-ended ELTIF?

Under the RTS, the maximum percentage of liquid assets which can be redeemed on a given dealing day by an open-ended ELTIF can be calculated by the AIFM using one of the two calculation methodologies outlined below which are further described in detail in the annexes to the RTS[5][6].

Option A: Calculation based on redemption frequency and notice period

Under this calculation methodology, the percentage of liquid assets which can be redeemed on a given dealing day for an open-ended ELTIF is calculated based on the redemption frequency and the notice period of the relevant ELTIF, (including the extension of the notice, if any), depending on which of the criteria referred to in Annex I to the RTS is selected by the AIFM.

This calculation methodology does not make it mandatory for the relevant ELTIF to hold a minimum percentage of liquid assets. Instead, the calculation methodology is based solely on the redemption frequency and applicable notice period imposed on redeeming investors in the relevant ELTIF. By way of example only, using the "baseline option", an ELTIF which allows redemptions every 6 months and imposes a 1-month redemption notice period can redeem a maximum of 54.5% of the liquid assets held by the ELTIF on a given redemption day. However, in the case of an ELTIF which allows redemptions on a monthly basis and also imposes a 1-month redemption notice period, it is restricted under the RTS to redeeming a maximum of 9.1% of the liquid assets of the ELTIF on any redemption day.

Option B: Calculation based on redemption frequency and minimum percentage of liquid assets

The second of these options is to limit redemptions on any redemption day to the percentages outlined in the table in Annex II to the RTS, which are calibrated depending on the redemption frequency of the relevant fund and the level of liquid assets held by the ELTIF.

By way of example only, under this calculation methodology an ELTIF which allows redemptions every 6 months is required to maintain a minimum of 15% of liquid assets and is restricted under the RTS to redeeming a maximum of

5 A copy of the RTS (including annexes) is accessible here
6 In both scenarios, the AIFM must apply the percentage of liquid assets that can be redeemed on a given dealing day to the sum of: (a) the assets categorised as "liquid assets" within the portfolio at that redemption date; and (b) the expected cash flow, forecasted on a prudent basis over 12 months. For the purposes of point (b), the AIFM can only take into account those expected positive cash flows for which it can demonstrate that there is a high degree of certainty that these cash flows will materialise. It cannot consider as expected positive cash flows the possibility that the ELTIF can raise capital through new subscriptions.

67% of the liquid assets of the ELTIF on any one redemption day. In the case of an ELTIF which allows redemptions on a monthly (or more frequent) basis, the ELTIF must maintain a minimum of 25% of liquid assets and is restricted under the RTS to redeeming a maximum of 20% of the liquid assets of the ELTIF on any one redemption day.

What is "matching" in an ELTIF?

"*Matching*" is where transfer requests of shares of the ELTIF by ELTIF investors wishing to exit the ELTIF are "*matched*" with transfer requests by potential investors. The ELTIF Regulation allows for the possibility of full or partial "*matching*".

Subject to meeting the conditions set down in the ELTIF Regulation and the related RTS, the "*matching*" mechanism allows for a certain level of liquidity for closed-ended ELTIFs (i.e. those ELTIFs that do not offer redemption possibilities) along with offering the possibility of liquidity during the ramp-up period and in advance of any "minimum holding period" applied by ELTIFs which offer redemption facilities.

The matching mechanism does not grant investors an enforceable right or claim to redeem shares at any point in time and is subject to treating investors fairly in that where there is a mismatch between existing and potential investors, matching must be carried out on a pro rata basis.

AIFMs must have in place a documented policy in the event that an ELTIF which they manage offers the possibility of "*matching*" which must address specific matters set down in the RTS.

Marketing an Irish ELTIF

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Who can an ELTIF be marketed to in the European Union?

As an ELTIF is an EU AIF with an EU authorised AIFM, an Irish ELTIF can be sold anywhere within the EEA to Retail Investors and/or Professional Investors once the EU AIFM has completed a straight-forward cross-border notification with its own competent authority in accordance with Article 31 or Article 32 (as applicable) of the AIFM Directive.

When marketing an ELTIF, what marketing rules apply?

The marketing rules laid down in the AIFM Directive, Cross-Border Distribution Regulation and ESMA Guidelines on Marketing Communications similarly apply to AIFMs marketing ELTIFs that they manage.

However, these existing rules are supplemented by specific marketing rules set out in the revised ELTIF Regulation designed for the cross-border marketing of ELTIFs to both Retail Investors and Professional Investors across the EU as detailed in the section below relating to transparency obligations.

How can an ELTIF be sold in the European Union?

(i) **By the ELTIF's EU AIFM.** The EU AIFM can market the ELTIF to Professional Investors and/or Retail Investors anywhere within the European Union using its passport once it has completed the relevant (straight-forward) cross-border notification process with its own competent authority;

(ii) **By a local distributor or placement agent** provided that the local distributor or placement agent is regulated to sell the ELTIF to the relevant category of investor in its home jurisdiction; and./or

(iii) **Via the secondary market.** The shares of an ELTIF may be admitted to trading on a regulated market or on an MTF. In addition, the constitutional document of the ELTIF may provide for the possibility of full or partial matching of transfer requests.

Is pre-marketing available in the context of an Irish ELTIF or a proposed Irish ELTIF?

Yes. EU AIFMs can engage in "pre-marketing" of Irish ELTIFs in order to gauge EU investors' interest in proposed new strategies and fund products provided that no subscription documents or finalised prospectuses are shared with those potential investors.

The pre-marketing application process, which is very straight-forward, involves notifying the home member state of the EU AIFM of where such pre-marketing is taking place and providing certain information on the proposed investment strategy. However, where there has been pre-marketing of an ELTIF or an ELTIF strategy in a Member State, the AIFM may not rely on reverse solicitation within 18 months following pre-marketing, meaning that any subscription by investors within that period will require full marketing permissions under the AIFMD.

How can the ELTIF be sold in jurisdictions outside of the European Union?

The marketing of the ELTIF in jurisdictions outside of the European Union (including the United Kingdom) will need to comply with the local marketing rules set down by the competent authorities of the relevant jurisdiction.

Where an ELTIF is marketed to Retail Investors[7], is the AIFM subject to additional obligations over and above those set out under the AIFM Directive?

Yes, the AIFM of an ELTIF marketed to Retail Investors is subject to additional obligations such as an obligation to:

(i) implement a product approval process in accordance with MiFID II requirements;

(ii) regularly review the retail share class(es) to assess whether such class(es) remains consistent with the needs of the identified target market and whether the intended distribution strategy remains appropriate.

(iii) make available to any distributor all appropriate information on the applicable class(es) and the product approval process, including the identified target market of such class(es); and

(iv) take reasonable steps to ensure that the retail share class(es) are distributed to the identified target market.

Are there specific requirements concerning the distribution and marketing of ELTIFs to Retail Investors?

Assessment of suitability

An ELTIF may only be marketed to a Retail Investor where an assessment of suitability has been carried out in accordance with MiFID II requirements and a statement on suitability has been provided to that Retail Investor in accordance with MiFID II requirements. This assessment must be carried out irrespective of whether the shares of the ELTIF are acquired by the Retail Investor from the AIFM, the distributor or in the secondary market.

Where an ELTIF is not considered to be suitable for a Retail Investor on the basis of an assessment of suitability carried out and notwithstanding this the Retail Investor wishes to proceed with the investment into the ELTIF, the express consent of the Retail Investor indicating that they understand the risks of investing in the ELTIF must be obtained.

Written alert to Retail Investors

The distributor, or when directly marketing shares of an ELTIF to a Retail Investor the AIFM, must issue a clear written alert to a Retail Investor in certain circumstances e.g. where the life of the ELTIF exceeds 10 years and where the matching of shares of an ELTIF is not possible.

Knowledgeable Employee exemption

However, the above requirements relating to a suitability assessment and a written alert are not applicable where the Retail Investor is a member of senior staff, or a portfolio manager, director, officer, or an agent or employee of the AIFM, or of an affiliate of the AIFM, and has sufficient knowledge about the ELTIF.

Right to cancel subscription

Retail Investors must have the right to cancel their subscription and have their money returned without penalty during a period of two weeks after the signature of the initial commitment agreement or share subscription agreement (whichever is applicable).

Depositary Liability

Where an ELTIF is marketed to Retail Investors, the Depositary must comply with the UCITS depositary liability provisions rather than the depositary liability provisions set down under AIFM Directive. This means that any such Depositary cannot discharge itself of liability in the event of a loss of financial instruments held in custody save in certain limited circumstances.

7 To the extent that an Irish ELTIF is established as a "Qualified Investor ELTIF" (as described in further detail in the section below entitled "Central Bank Approval Process", the obligations set out below will apply.

Umbrella ELTIFs

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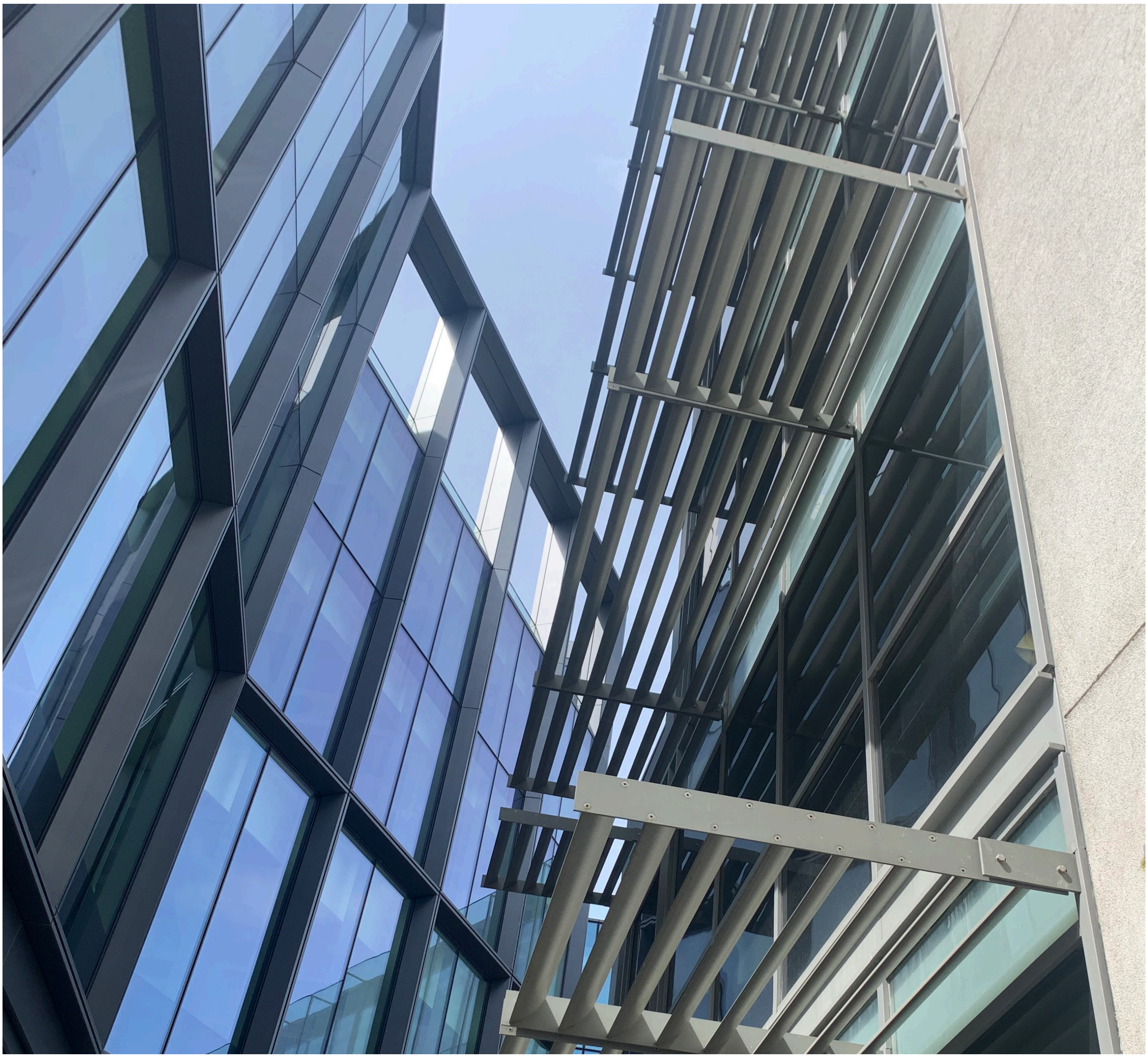
Is it possible to structure an Irish-domiciled ELTIF as an umbrella fund?

Yes. Under the Irish ELTIF regime established by the Central Bank, it is possible to establish an ELTIF as an umbrella arrangement within which individual ELTIF sub-funds can house different investment strategies.

Furthermore, the Central Bank also allows the establishment of an ELTIF sub-fund within an existing QIAIF umbrella structure (if the ELTIF sub-fund is being established as a "Professional Investor ELTIF" or a "Qualified Investor ELTIF" as described below under "Central Bank Approval Process") or within an existing RIAIF umbrella structure (if the ELTIF is being marketed solely to Retail Investors).

In this regard, the existing Irish funds legislation provides for segregated liability between individual sub- funds established within the umbrella fund, whether it is structured as an ICAV, an ILP, a public limited company, a unit trust or a common contractual fund.

Advantages of using such umbrella structures include significant economies of scale and increased speed to market when compared with costings and timing implications involved in establishing separate legal structures for each strategy/category of investor. It is also possible to appoint a separate Investment Manager to each sub-fund of the umbrella.



Transparency rules applicable to Irish ELTIFs

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What transparency obligations are imposed on an Irish ELTIF?

In addition to the transparency obligations under the AIFM Directive and applicable Central Bank rules, under the ELTIF Regulation Irish-domiciled ELTIFs will be required to provide certain information to investors both prior to investment and on a periodic basis thereafter.

Prospectus

The prospectus, which must be provided to investors upon request and free of charge, must include information on matters including:

- Investment objectives and strategies, including how the ELTIF will qualify as long-term in nature;
- The categories of assets and jurisdictions in which the ELTIF may invest;
- The illiquid nature of the ELTIF;
- Information on key service providers;
- Conflicts of interests;
- Risks associated with investing in real assets;
- Valuation procedures; and
- Specific disclosures on fees and expenses, including an overall cost ratio of the ELTIF.

The essential elements of the ELTIF's prospectus must be kept up to date and any material changes to the information contained in the prospectus must be disclosed to existing investors via the annual report.

Annual Report

Each ELTIF will be required to prepare a set of audited financial statements on an annual basis.

Marketing Documentation

Any marketing documentation prepared in respect of an Irish ELTIF must contain certain prescriptive information set down in the ELTIF Regulation. This includes prominently informing investors about the illiquid nature of the ELTIF, disclosing the risks associated with investing in real assets and advising investors that only a small proportion of their overall portfolio should be invested in the ELTIF.

PRIIPS KID

To the extent that the ELTIF is marketed to Retail Investors, the ELTIF must ensure that a PRIIPS key investor document is prepared and published in accordance with the PRIIPS Regulation.

Central Bank Approval Process

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The applicable Central Bank approval process will depend on (i) the liquidity profile of the ELTIF and (ii) the type of investor the ELTIF will be marketed to.

Type of ELTIF	Central Bank Approval Process
Closed-ended ELTIF marketed to professional investors and/or qualified investors	24-hour approval process available. The relevant ELTIF will be approved by the Central Bank on the next business day following the filing of the application seeking approval of the ELITF with it provided that: (i) all of the relevant service providers and, where relevant, directors of the ELTIF have already been approved or cleared by the Central Bank; and (ii) the Central Bank is satisfied with the finalised documentation submitted to it, including the confirmation received in respect of the contents of the relevant documentation.
Closed-ended ELTIF marketed to retail investors	Draft prospectus and supporting documentation must be submitted to the Central Bank for its prior review before formal application for approval of the ELTIF is submitted to it.
Open-ended ELTIF marketed to professional investors and/or qualified investors	**Step 1:** Pre-submission containing specific liquidity information required under the RTS[8] is submitted to the Central Bank for its consideration. **Step 2:** The relevant ELTIF will be approved by the Central Bank on the next business day following the filing of the application seeking approval of the ELITF with it provided that: (i) all of the relevant service providers and, where relevant, directors of the ELTIF have already been approved or cleared by the Central Bank; and (ii) the Central Bank is satisfied with the finalised documentation submitted to it, including the confirmation received in respect of the contents of the relevant documentation.
Open-ended ELTIF marketed to retail investors	Draft prospectus and supporting documentation must be submitted to the Central Bank for its prior review before formal application for approval of the ELTIF is submitted to it.

8 This includes providing the Central Bank with (i) the results, assumptions and inputs used for liquidity stress testing demonstrating whether and how the ELTIF will be able to deal with redemption requests in severe but plausible scenarios, (ii) where the proposed redemption frequency of the ELTIF is greater than quarterly, the justification of the appropriateness of the redemption frequency and its compatibility with the individual features of the ELTIF and (iii) where the proposed notice period of the ELTIF is less than three months, the rationale for applying the shorter notice period and an explanation as to how this is consistent with the individual features of the ELTIF.

For the purposes of the above, a "Qualified Investor" is:

i. a Professional Investor; or

ii. An investor who has received an appraisal from an EU credit institution, a MiFID firm or a UCITS management company which confirms that the investor has the appropriate expertise, experience and knowledge to adequately understand the investment in the ELTIF; or

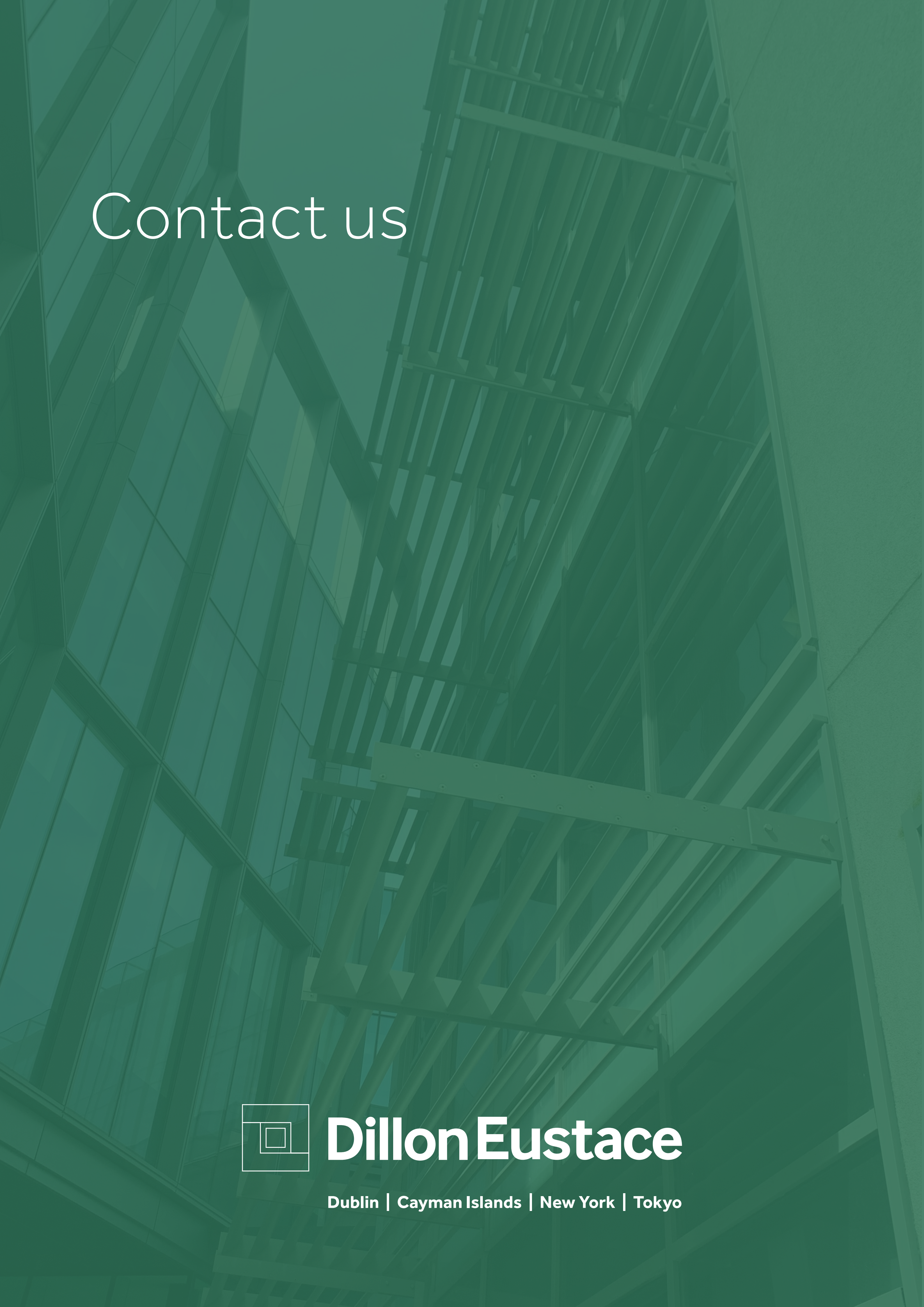
iii. An investor which certifies that they are an informed investor by providing the following:

- confirmation (in writing) that the investor has such knowledge of and experience in financial and business matters as would enable the investor to properly evaluate the merits and risks of the prospective investment in the ELTIF; or

- confirmation (in writing) that the investor's business involves, whether for its own account or the account of others, the management, acquisition or disposal of property of the same kind as the property of the ELTIF.

Conclusion

Given the structuring flexibility afforded under the Irish regulatory regime, the Central Bank 24-hour approval process available to certain ELTIFs as well as the favourable domestic tax treatment afforded to all Irish ELTIFs, the Irish ELTIF is expected to become the product of choice for global asset managers seeking to market regulated funds investing in long-term investments to Professional Investors and /or Retail Investors on a cross-border basis within the EU.



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